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In re Application of : MAR 18 2008
JOSEPH, J. MICHAEL :
Application No. 10/622,567 : DECISION ON PETITION
Filed: July 21, 2003 :
Attorney Docket No. 051252-5244 :
:

This is a response to the communication-titled Petition To Withdraw Improper Notice Of Abandonment- received in the United States Patent & Trademark (USPTO) on February 10, 2009. The communication is being treated as a Petition To Withdraw Holding of Abandonment under 37 CFR § 1.18(b).

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed October 10, 2008. The Notice of Abandonment, mailed on February 2, 2009.

In light of the non-compliance with 37 CFR § 1.8(b), the holding of abandonment cannot be withdrawn.

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

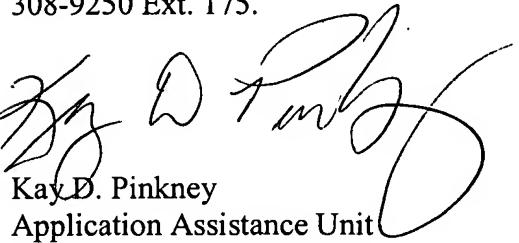
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
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Telephone inquires concerning this decision matter may be directed to the undersigned at (703) 308-9250 Ext. 175.



Kay D. Pinkney
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